

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
2000 Biennial Regulatory Review --	)	CC Docket No. 00-229
Telecommunications Service Quality	)	
Reporting Requirements	)	

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**INITIAL COMMENTS  
OF THE  
ILLINOIS COMMERCE COMMISSION**

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Pursuant to the Commission's Notice of Proposed Rulemaking<sup>1</sup> released on November 9, 2000, the Illinois Commerce Commission ("ICC") hereby submits its Initial Comments in the above-captioned proceeding. While the ICC does not take a position regarding the appropriateness of the Commission's proposals to streamline and reform its existing service quality monitoring program, the ICC respectfully requests that the Commission confirm that the final rules adopted in this proceeding will constitute minimum requirements, thereby allowing the State commissions to impose additional requirements, when necessary, to address service quality issues that the State commissions may find to exist in their respective jurisdictions.

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<sup>1</sup> *In the Matter of 2000 Biennial Regulatory Review – Telecommunications Service Quality Reporting Requirements*, CC Docket No. 00-229, Notice of Proposed Rulemaking, 65 Fed. Reg. 75657 (Nov. 9, 2000)("NPRM").

## **INTRODUCTION**

In its NPRM, the Commission proposes to “streamline and reform” its existing service quality monitoring program in order to further the congressional mandate, embodied in the Telecommunications Act of 1996 (“TA96”), 47 U.S.C. §§ 151 et seq., of “promoting competition and reducing regulation in order to secure lower prices and higher quality services for American telecommunications consumers.”<sup>2</sup> Specifically, the NPRM identifies three primary goals that the Commission seeks to accomplish via the initiation of this proceeding: (1) to eliminate the bulk of the existing service quality reporting requirements that may no longer make sense in today’s marketplace; (2) to modify the existing reporting requirements in order to better serve the Commission’s consumer protection goals; and (3) to explore alternative ways for the Commission to work with the States to ensure that consumers enjoy high quality telecommunications service throughout the United States.<sup>3</sup> The NPRM provides that interested parties may file comments addressing the Commission’s proposed changes on or before January 12, 2001.<sup>4</sup>

In these Initial Comments, the ICC does not take a position on the specifics of the Commission’s proposed changes because the ICC is currently addressing several local service quality issues, including reporting requirements, in open proceedings in Illinois. First, the ICC is presently considering revisions to Part 730 of its Rules, 83 Ill. Adm. Code 730, which address telecommunications carriers’ service quality standards and reporting requirements within Illinois.<sup>5</sup> Second, the ICC is reviewing an alternative form of regulation adopted for Ameritech Illinois in 1994 that contains a service quality incentive

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<sup>2</sup> *Id.* at ¶ 1.

<sup>3</sup> *Id.* at ¶¶ 2-4.

<sup>4</sup> *Id.* at ¶ 49.

mechanism specific to Ameritech Illinois.<sup>6</sup> As the Commission acknowledged in its NPRM, the State commissions in the five State Ameritech region, including the ICC, have been dealing with increased consumer complaints regarding an apparent deterioration in Ameritech's service quality.<sup>7</sup> Given these recent concerns regarding Ameritech's service quality, the ICC will likely be asked by several parties in the Alt. Reg. Review to reevaluate and consider recommended improvements to Ameritech Illinois' service quality incentive mechanism. Due to this pending litigation, the ICC respectfully declines to make specific recommendations in response to the Commission's NPRM.

The ICC is filing these Initial Comments to ensure that States maintain the ability to impose additional service quality standards and reporting requirements on a State-specific basis because service quality is primarily a local issue. The ICC supports the Commission's recognition in its NPRM that individual States should have the ability to mandate that carriers report directly to State commissions to address specific service quality problems that arise in the States' respective jurisdictions.<sup>8</sup> Accordingly, the ICC respectfully requests that any final rules adopted by the Commission allow the States the discretion to impose additional service quality reporting requirements.

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<sup>5</sup> *Revision of 83 Ill. Adm. Code 730*, Ill. C.C. Dckt. No. 00-0596 ("Part 730 Rulemaking").

<sup>6</sup> *Illinois Bell Telephone Company d/b/a Ameritech Illinois – Application for Review of Alternative Regulation Plan*, Ill. C.C. Dckt. Nos. 98-0252/98-0335 (Cons.) ("Alt. Reg. Review").

<sup>7</sup> NPRM at ¶ at 3 n.7.

<sup>8</sup> *Id.* at ¶ 6.

## **DISCUSSION**

- I. THE REVISED SERVICE QUALITY MONITORING PROGRAM ADOPTED BY THE COMMISSION SHOULD CONSTITUTE MINIMUM REQUIREMENTS THAT CAN BE EXCEEDED BY STATE COMMISSIONS WHEN ADDRESSING LOCAL SERVICE QUALITY CONCERNS ON A STATE-SPECIFIC BASIS.

In this rulemaking, the Commission seeks to establish an efficient method of data collection to serve the needs of all interested parties, include State and Federal regulators. The Commission, however, correctly recognized in its NPRM the local nature of service quality regulation as well as the traditional role States have played in promoting telecommunications service quality. Specifically, the Commission stated as follows:

Although the states may, and likely will, continue to impose additional service quality reporting and performance requirements on carriers operating in their jurisdictions, our proposed national monitoring ‘floor’ represents a uniform framework that can serve to minimize overall burdens associated with reporting the information.

*Id.* at ¶ 6.

The ICC supports the Commission’s efforts to ensure that the States retain the essential tools to address and resolve local service quality issues. Quality of service provided to consumers of local telecommunications services is essentially local in character and has historically been regulated by the States as part of their police powers.<sup>9</sup> The local nature of the quality of service provided to consumers gives rise to a paramount interest on the part of the States in regulating the quality of local telecommunications service.

More importantly, the Commission’s pronouncement on State regulation of service quality is consistent with Congress’ decision to preserve States’ ability to address service

quality issues at the local level. In this case, Congressional intent is governed by TA96, which clearly preserves to States the ability to regulate telecommunications service quality within their respective jurisdictions. For example, subsection 253(b) of TA96, which concerns the removal of barriers to entry to the local telecommunications markets, states that “[n]othing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, *ensure the continued quality of telecommunications services*, and safeguard the rights of consumers.”<sup>10</sup> Further, subsection 252(e)(3), which deals with the State commissions’ review and approval of interconnection agreements, provides that “nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, *including requiring compliance with intrastate telecommunications service quality standards or requirements*.”<sup>11</sup> Accordingly, since the enactment of TA96, case law has been formulated which substantially supports the notion that States continue to have broad authority to regulate telecommunications to provide for the public safety and welfare, service quality, and consumer protection.<sup>12</sup>

As explained above, the ICC continues to act within its authority to protect the interest of local telecommunications consumers in the State of Illinois by reviewing the service quality standards and reporting requirements that will be applicable within Illinois. The exercise of such authority is consistent with Congressional intent, as articulated in

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<sup>9</sup> See, *Texas Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393, 418 (1999)(recognizing the States’ historical role in regulating telecommunications service quality).

<sup>10</sup> 47 U.S.C. § 253(b)(emphasis added).

<sup>11</sup> *Id.* at § 252(e)(3)(emphasis added).

<sup>12</sup> See e.g., *Cablevision v. Public Improvement Comm’n*, 184 F. 3d 88, 98 (1999); *Texas Office of Public*

TA96, as well as the Commission's acknowledgment in its NPRM that "states may, and likely will, continue to impose *additional service quality reporting and performance requirements* on carriers operating in their jurisdictions."<sup>13</sup> The ICC, therefore, encourages the Commission to expressly adopt the notion that any action taken in this proceeding should result in a national monitoring floor of service quality reporting requirements upon which individual states can place additional requirements that address specific service quality problems in their respective jurisdictions.

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*Utility Counsel*, 183 F. 3d at 418.

<sup>13</sup> NPRM at ¶6 (emphasis added).

## **CONCLUSION**

WHEREFORE, for each and all of the foregoing reasons, the Illinois Commerce Commission respectfully requests that the Commission provide that any final rules adopted by the Commission in this proceeding constitute a minimum floor of service quality reporting requirements that States are permitted to exceed to address service quality issues within their respective jurisdictions.

January 11, 2001

Respectfully submitted,

ILLINOIS COMMERCE COMMISSION

/s/ SARAH A. NAUMER

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon all known parties of record by mailing, by first-class mail, postage prepaid, a copy thereof properly addressed to each party.

Dated at Chicago, Illinois, this 11th day of January, 2001.

/s/ SARAH A. NAUMER

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